Signature

6/9/10

Phone: 303/312-6217

Date:

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<b>\$</b> EPA	Environmental Pr Washington,	<u> </u>	•
	MISCELLANEOUS OBLI		
1. OBLIGATION(S) FOR	THE MONTH/PERIOD OF May	, 20 <u>10</u>	
Account" for the res account manageme	in accoradance with the "Amendment to C toration of the Cabinet View Country Club nt fee (\$1,757.82). The escrow account i 6142, Account #: 102256142, Checking A	o Golf Course (\$175,782.00) and is managed by First National Bar	payment of the 1% escrow nk, 804 Mineral Ave., Libby
3.			
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	4. Financial and A	ccounting Data	
Line (Max 6)  1 2 3		Program Results Code Max 7)  LLABC  Cost Org/Code  Program Results Code (Max 9)  Cost Org/Code	Object Class (Max 4) (Max 2)  Yays  NTERED INTO IFMS
Amount.  1 2 3	(Dollars) (Cents) (Max 8). \$177,539.82 08BC (V00	CØØI  B	JUN 1 0 2010
	5. Certifi	cation	
Certification of Funds	Availability (Funds Certifying Official) Signature	Date	303-312-66
Prepared By:	Victor Ketellapper	Approved By: Elisabeth	1 trung

EPA Form 2550-10 (Rev. 10-94) Electronic and paper versions accepted. (WebForms v1.0) Previous editions are obsolete.

(303) 312-6578

Signature

Date:

Phone:

9.	F	PA

**United States** 

<b>\$</b> EPA	Environmental Protection Agency Washington, DC 20460			
MISCELLANEOUS OBLIGATION DOCUMENT				
1. OBLIGATION(S)	FOR THE MONTH/PERIOD OF May	, 20_10		
2. Purpose  To provide funding in accoradance with the "Amendment to Compensation and Escrow Agreement to the Escrow Account" for the restoration of the Cabinet View Country Club Golf Course (\$175,782.00) and payment of the 1% escrow account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment of the 1% escrow Account management fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment fee (\$1,757.82). The country Club Golf Course (\$175,782.00) and payment fee (\$175,782.00)				
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AN ORIGINAL OBLIGATION  AN INCREASE TO A PREVIOUS OBLIGATION  A DECREASE TO A PREVIOUS OBLIGATION  CANCELLATION OF A PREVIOUS OBLIGATION  4. Financial and Accounting Data  A. Financial and Accounting Data  ON Budget/FYs Appropriation Code Budget CryfCode (Max 9)  (Max 6)  (Max 7)  Amount (Dollars) (Cents) (Max 8)  (Cents) (Max 8)  (Cost CryfCode (Max 7)  Amount (Dollars) (Cents) (Max 8)  Amount (Dollars) (Cents) (Max 9)  Amount (Dollars) (Max 9)				
5. Certification				
Certification of Fu	nds Availability (Funds Certifying Official Signature  Vidor Ketellupper Signature	Approved By: Elisabeth Evang Signature		
	Date: Date:			
F	Phone: (303) 312-6578	Phone: 303/312-6217		

ACTION: R SCREEN: REQL USERID: MIMI

06/10/10 11:35:55 AM

\*\*\* REQUISITION ACCOUNTING LINE INQUIRY TABLE \*\*\*

KEY IS TRANS CODE, REQ NO, LINE NO

TRANS CODE: RQ REQ NO: 1008LSP154

01- LINE NO: 001 BFY: 2010 APPR: TR2B RPIO: 08

BUDGET ORG: 08LRABC PE: 302DD2C LINE AMT:

177,539.82

COST ORG: C001 SITE/PROJ: 08BCRV00 CLOSED AMT:

0.00

BOC: 4215 RPTG CATG: OBLG AMT:

0.00

LAST CHG STATUS: DESCRIPTION: MOD CABINET VIEW COUNTRY CLUB

02- LINE NO: BFY:

APPR:

RPIO:

BUDGET ORG:

PE:

LINE AMT:

COST ORG: SITE/PROJ: CLOSED AMT:

BOC:

RPTG CATG:

OBLG AMI:

LAST CHG STATUS: DESCRIPTION:

03- LINE NO: BFY:

APPR:

RPIO:

BUDGET ORG:

PE:

LINE AMT:

COST ORG: SITE/PROJ:

CLOSED AMT:

BOC: RPTG CATG:

OBLG AMT:

LAST CHG STATUS: DESCRIPTION:

02-\*L009 HEADER CHANGE

Banner Page 1 of 1

Requisition Information

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V 1000 6

#### United States

Washington, DC 20460				
MISCELLANEOUS OBLIGATION DOCUMENT				
1. OBLIGATION(S) FOR THE MONTH/PERIOD OF, 20				
2. Purpose Provide funding to the escrow account for the restoration of the Cabinet View Country Club Golf Course (\$975,000) and payment of the 1% escrow account management fee (\$9,750). The resotration work is required as a result of the removal of asbestos contaminated materials by EPA as part of the Libby Asbestos Superfund Site. The escrow account will be managed by First National Bank, Libby, MT.				
AN ORIGINAL OBLIGATION  AN INCREASE TO A PREVIOUS OBLIGATION  A DECREASE TO A PREVIOUS OBLIGATION  CANCELLATION OF A PREVIOUS OBLIGATION				
4. Financial and Accounting Data				
Line DCN Budget/FYs (Max 4) Appropriation Code Budget Org/Code (Max 7) Program Results Code (Max 9) (Max 4) (Max 2)  1 2 3 ENTERED INTO IFM				
Amount (Dollars) (Cents) Site/Project Cost Org/Code (Max 7)  1 \$984,750.00				
RCL 8/13/09 5. Certification				
Certification of Funds Availability (Funds Certifying Official)  811409 303-312-660  Signature  Date  Phone				
Prepared By: Approved By: Carl & Carlell  Signature  Date: 8-13-09  Date: 8/17/19				

Phone:

Phone: (303) 312-6578

ACTION: R SCREEN: REQL USERID: MIMI

08/14/09 04:06:06 PM

\*\*\* REQUISITION ACCOUNTING LINE INQUIRY TABLE \*\*\*

KEY IS TRANS CODE, REQ NO, LINE NO

TRAMS CODE: RQ REQ NO: 0908LSP215

01- LINE NO: 001 BFY: 2009 APPR: TR2B RPIO: 08

BUDGET ORG: 08LRABC PE: 302DD2C LINE AMT:

984,750.00

COST ORG: C001 SITE/PROJ: 08BCRV00 CLOSED AMT:

0.00

BOC: 4215 RPTG CATG:

OBLG AMT:

0.00

LAST CHG STATUS: DESCRIPTION: RESTRIN CABINET VW COUNTRY CLU

02- LINE NO: BFY:

APPR:

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BUDGET ORG:

PE:

LINE AMT:

COST ORG:

SITE/PROJ:

CLOSED AMT:

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RPTG CATG:

OBLG AMT:

LAST CHG STATUS: DESCRIPTION:

03- LINE NO: BFY:

APPR:

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BUDGET ORG:

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LINE AMI:

COST ORG: SITE/PROJ:

CLOSED AMT:

BOC:

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OBLG AMI:

LAST CHG STATUS: DESCRIPTION:

02-\*L009 HEADER CHANGE

# **COMPENSATION AND ESCROW AGREEMENT**

This Escrow Agreement ("Agreement") is entered into as of August 12, 2009, by and between the United States Environmental Protection Agency, Region 8 ("EPA"), First National Bank Montana, Libby, Montana branch (the "Bank"), and Cabinet View Country Club ("CVCC") hereinafter referred to collectively as the "Parties."

WHEREAS, the response action at the Libby Asbestos Site (the "Site"), Lincoln County, Montana implemented by EPA is authorized by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300;

WHEREAS, CVCC is the owner of the land and improvements known as Cabinet View Country Club, located at 378 Cabinet View Road, Libby, Montana, 59923 (the "Property"), located within the Site. CVCC maintains and operates a golf course on the Property, which contains exposed vemucilite and amphibole asbestos;

WHEREAS, on August 18, 2001, EPA issued an Amendment to an Action Memorandum which was originally issued on May 23, 2000 in which EPA documented the determination that cleanup was necessary at properties such as the CVCC property because of asbestos contamination. The June 17, 2009 Action Memorandum Amendment raised the removal ceiling for removal activity in Libby, including activity at the golf course, and the August \_\_\_, 2009 Action Memorandum Amendment specifically authorized the removal at the golf course. The selected response action to be implemented at the Property will result in excavation and removal of contaminated soils from tee boxes, greens, and various other locations on the front nine holes of the golf course. The golf course will have to be restored by a contractor to be retained by CVCC after the contaminated soils have been excavated;

WHEREAS, CVCC certifies that the Property was acquired with no knowledge of the asbestos contamination. CVCC has granted to EPA, its employees, agents, contractors and representatives, access to the Property for the purpose of implementing the selected response action, including the excavation activities as described above; and

WHEREAS, the document attached hereto as Attachment A further clarifies the agreement between EPA and CVCC for the cleanup and restoration of the golf course.

NOW, THEREFORE, in consideration of the mutual promises, obligations, and agreements set forth below, the parties agree as follows:

#### Section 1. Definitions

As used in this Agreement:

(a) The term "EPA" shall mean the United States Environmental Protection Agency, Region 8.

- (b) The term "Bank" shall mean the First National Bank of Montana, Libby, Montana branch.
- (c) The term "Funds" shall mean those monetary funds placed by EPA into an escrow account at the First National Bank of Montana, Libby, Montana branch, for the purposes established in this Agreement.
- (d) The term "Escrow Manager" shall mean the Bank official charged with implementing the disbursal of Funds pursuant to this Agreement.
- (e) The term "Allowable Expense" shall mean those expenses related to the restoration of the excavated fairways, tee boxes, greens, bunkers, flowerbeds, soils under the deck adjacent to the club house, cart paths, compensation for loss of use of golf carts, the irrigation system, and various other locations, including an allocation of \$975,000.00 for said restoration. This allocation amount is a negotiated price based in part upon EPA's estimate of the cost of restoring the CVCC golf course to its original condition.
- (f) The term "Escrbw Account" shall mean the account setup, maintained and disbursed by the Bank for the purposes established herein.
- (g) The term "Property" shall mean the CVCC property at 378 Cabinet View Road, Libby, Montana.

#### Section 2. Establishment of Escrow Account

EPA shall transfer to the Bank NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000.00) within thirty (30) days of execution of this Agreement by EPA. This money shall constitute the Funds and shall be placed by the Bank into a non-interest bearing account which shall become the Escrow Account. EPA shall pay the Bank 1% of Funds that are distributed for the performance of its duties under this Agreement.

#### Section 3. Disbursement of the Funds

The Escrow Manager shall disburse the Funds in response to bi-weekly draws presented by CVCC's general contractor. Each draw shall include a signed certification that all the bills included therein are for expenses related to the restoration of the front nine holes of the golf—course. Restoration shall be limited to the replacement of fairways, tee boxes, greens, bunkers, flowerbeds, soils under the deck adjacent to the club house, cart paths, compensation for loss of use of golf carts, and the irrigation system. The Funds shall not be used for anything else. The general contractor shall be a licensed independent contractor. All work performed shall be pursuant to valid city permits, where such permits are required. The Escrow Manager shall perform inspections of ail the work.

# Section 4. Termination of the Escrow Account

The Escrow Manager shall continue the disbursements until the Funds are exhausted. If any portion of the Funds is left in the Escrow Account after December 31, 2010, that portion shall be returned to EPA and the Escrow Account shall be terminated. Exhaustion of the Funds on or before December 31, 2010 shall also constitute a termination of the Escrow Account. If EPA, the Escrow Manager, or the Bank determines that the Funds have been applied for or used for activities other than restoration of the front nine holes of the golf course, EPA may instruct the Bank and/or Escrow Manager to immediately terminate the Escrow Account. In such case, no further restoration funds will be provided and all claims against EPA will be considered released pursuant to Section 11.

# Section 5. Express Powers of the Escrow Manager and the Bank

Without in any way limiting the powers and discretions conferred upon the Escrow Manager and the Bank by the other provisions of this Agreement or by law, the Escrow Manager and the Bank are expressly authorized and empowered:

- (a) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to implement the powers herein granted; and
  - (b) To make all distributions and payments as described herein.

#### Section 6. Monthly Valuation

The Escrow Manager shall finnish to the EPA a statement confirming the value of the Escrow Account on at least a monthly basis.

## Section 7. Instructions to the Escrow Manager and Bank

All orders, requests and instructions by EPA to the Escrow Manager and/or Bank shall be in writing. The Escrow Manager and the Bank shall be fully protected in acting without inquiry in accordance with EPA's orders, requests and instructions. The Escrow Manager and the Bank shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of EPA hereunder has occurred:

#### Section 8. Notice

All notices under this Agreement will be sent by overnight delivery service or certified or registered mail to the address of the applicable party set forth below:

# If to EPA:

Mr. Mike Cirian
U.S. Environmental Protection Agency, Libby Information Center
501 Mineral Ave.
Libby, Montana 59923

If to the Bank or Escrow Manager:

Mr. Doim Ross
First National Bank of Montana, Libby, Montana branch
504 Mineral Ave
Libby, Montana 59923

If to CVCC:

Mr. Gene Chappell, President, CVCC Board of Directors 378 Cabinet View Road Libby, Montana 59923

# Section 9. Amendment of Agreement

This Agreement may be amended by an instrument in writing executed by EPA, the Bank, and CVCC.

# Section 10. Immunity

The Escrow Manager shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of the Escrow Account, or in inhplenienting any orders, requests or instructions by EPA issued in accordance with this Agreement.

# Section 11. Release of Claims

CVCC hereby agrees that the payments made pursuant to this Agreement shall constitute full settlement and just compensation, under all applicable laws and regulations, of any and all claims it may have against the EPA for actual replacement and compensation for the value of all buildings and personal items demonsbed or diminished by, or disposed of pursuant to implementation of the selected response action. CVCC assumes full responsibility for the restoration activities. EPA shall not be deemed to be a party to any contract for the restoration. CVCC agrees to hold EPA harmless for any liability associated with such restoration, including, but not limited to, claims resulting from accidents or from defective construction.

# Section 12. Reservation of Rights

Nothing in this Agreement shall preclude CVCC from pursuing any legal reshedy that it may otherwise have against any other entity to recover damages and seek compensation not covered by or included in this Agreement. Nothing in this Agreement shall preclude EPA from pursuing any legal remedy that it may otherwise have against any potentially responsible party in order to recover costs EPA incurs for response actions at the Site.

## Section 13. Choice of Law

This Agreement shall be administered, construed and enforced according to the laws of the State of Montana and of the United States of America.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed, where appropriate, by their duly authorized respective officers or employees.

Gene Chappell

President: Cabinet View Country Club

Dann Rohrer

Vice President: Cabinet View Country Club

Wayne Maines

Board Member: Cabinet View Country Club

Carol Rushin, Acting Regional Administrator United States Environmental Protection Agency

Donn Ross

First National Bank of Montana

Libby, Montana, Branch

A DR DC

Attachment A to the Compensation and Escrow Agreement Concerning Other Items of Understanding Between EPA and Cabinet View Country Club

- I. Additional understandings. The following are additional understandings between EPA and Cabinet View Country Club (CVCC) as to how removal and restoration work will be performed at the CVCC golf course.
  - A. The CVCC club house will be closed until all removal work has been completed.
  - B. Daily access to areas where removal work is being performed (including clubhouse and maintenance shop and sheds) will be restricted for CVCC employees. Daily access will be permitted only at times when EPA's daily removal work is not being performed.
  - C. CVCC will have daily access to all areas of the golf course for mowing as necessary only at times when daily removal work is not being performed.
  - D. Removal work will be completed in stages. Restoration work will be performed where removal work is complete while removal work continues at other locations.
  - E. EPA's removal contractor will conduct daily tailgate meetings every moming with the Volpe National Transporation Systems Center (Volpe) site representative, architect and engineer oversight, restoration contractor, and CVCC to resolve issues and coordinate activities.
  - F. CVCC will be responsible for ensuring that all backfill materials do not contain any detectable Libby Amphibole asbestos or other contaminants.
  - G. A construction kick-off meeting will be held 1-2 days prior to the start of removal activities. EPA has requested that all interested parties attend the meeting. This includes EPA, CVCC and its contractors, Volpe, the removal contractor, and GDM.
  - H. Restoration of haul roads that would normally be required at the conclusion of removal work by EPA's contractor will be performed after the completion of CVCC's restoration work.
- II. Clarifications concerning escrow agreement. The following are items that will be paid for within the allocation in the escrow agreement.
  - A. A portion of the allocation of \$975,000 as provided in the Escrow Agreement,
     \$10,000, is to be applied as compensation for the loss of use of golf carts, and loss of access to private sheds during the removal work. CVCC will be responsible for

storage, transportation/shuttling, and security for golf carts at all times during all activities. EPA will provide an electrical power connection. CVCC will provide charging stations. CVCC is solely responsible for the security of the golf carts, wherever they may be stored.

- B. A portion of the allocation of \$975,000 as provided in the Escrow Agreement, \$7,000, is to be applied to the cost of severing and capping irrigation lines. This work will be performed by a CVCC contractor.
- C. A portion of the allocation of \$975,000 as provided in the escrow agreement, \$7000, is to be applied to pay for sod to be placed around greens to inhibit erosion during the period in which grass on the restored portions of the course will be regrown.
- III. Additional expense items. The following are expense items that EPA will pay in connection with the cleanup and restoration of the golf course in addition to the payments to be made under the Escrow Agreement:
  - A. EPA will provide one 14 foot by 66 foot trailer for a temporary club house, two portable toilets, a portable handwashing facility, and will move internet and telephone connections to the trailer. EPA will also provide a temporary power connection to the trailer. CVCC will be responsible for all bills associated with ongoing internet, telephone, and electrical services. Security of the trailer is the responsibility of CVCC.
  - B. EPA will provide a temporary one acre parking area. The exact size and location of the parking area is to be developed. EPA will consider sampling and utilizing the soil stockpile currently onsite as common fill. All material will be left in-place.
  - C. Several trees are to be cut down by CVCC prior to cleanup activities starting. The stumps located in the areas that were previously agreed upon will other be ground down or removed, per the removal contractor's discretion.

# €EPA

#### **United States**

# **Environmental Protection Agency**

# Washington, DC 20460 MISCELLANEOUS OBLIGATION DOCUMENT 1. OBLIGATION(S) FOR THE MONTH/PERIOD OF 2. Purpose Provide funding to the escrow account for the replacement cost (\$88,908) of the Fallis home that was demolished as part of the property cleanup at the Libby Asbestsos Superfund Site and payment of the 1% escrow account management fee (\$889.08). The escrow account will be managed by Lincoln County Credit Union, P.O. Box 1586, Libby, Montana, 59923. 3. ✓ AN ORIGINAL OBLIGATION AN INCREASE TO A PREVIOUS OBLIGATION A DECREASE TO A PREVIOUS OBLIGATION CANCELLATION OF A PREVIOUS OBLIGATION 4. Financial and Accounting Data Budget/FYs (Max 4) DCN Appropriation Code Budget Org/Code Program Results Code Object Class (Max 6 1 2 3 **ENTERED INTO IFMS** Cost Org/Code (Max 8) (Max 7) (Dollars) \$89,797.08 C 00 1 2 3 Rec 5. Certification Funds Certifying Official) Signature Approved By: Prepared By: Signature Victor Signature Ketelluppe 8-13-09 Date: Date: (303) 312-6578 Phone:

ACTION: R SCREEN: REQL USERID: MIMI

08/14/09

04:03:56 PM

\*\*\* REQUISITION ACCOUNTING LINE INQUIRY TABLE \*\*\*

KEY IS TRANS CODE, REQ NO, LINE NO

TRANS CODE: RQ REQ NO: 0908LSP214

01- LINE NO: 001 BFY: 2009 APPR: TR2B RPIO: 08

BUDGET ORG: 08LRABC PE: 302DD2C LINE AMT:

89,797.08

COST ORG: C001 SITE/PROJ: 08BCRV00 CLOSED AMT:

0.00

BOC: 4215 RPTG CATG:

OBLG AMI:

0.00

LAST CHG STATUS: DESCRIPTION: REPLACEMENT FALLIS RESIDENCE

02- LINE NO: BFY:

APPR:

RPIO:

BUDGET ORG:

PE:

LINE AMT:

COST ORG: SITE/PROJ:

CLOSED AMT:

BOC:

RPTG CATG:

OBLG AMI:

LAST CHG STATUS: DESCRIPTION:

RPIO:

03- LINE NO: BFY:

APPR:

BUDGET ORG:

PE:

LINE AMT:

COST ORG:

SITE/PROJ:

CLOSED AMT:

BOC:

RPTG CATG:

OBLG AMT:

LAST CHG STATUS: DESCRIPTION:

02-\*L009 HEADER CHANGE

# **COMPENSATION AND ESCROW AGREEMENT**

This Escrow Agreement ("Agreement") is entered into as of July 8, 2009, by and between the United States Environmental Protection Agency, Region 8 ("EPA"), Lincoln County Credit Union (the "Bank") and Buford Fallis ("Fallis") hereinafter referred to collectively as the "Parties".

WHEREAS, the response action at the Libby Asbestos Site (the "Site"), Lincoln County, Montana implemented by EPA is authorized by Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300;

WHEREAS, the Fallises are the owners of the land and improvements known as 16296 Bull Lake Road, Troy, MT 59935 (the "Property") located within the Site. The Fallises maintained a residence on the Property, which contains exposed vermiculite;

WHEREAS, on August 18, 2001, EPA issued an Amendment to an Action Memorandum which was originally issued on May 23, 2000 in which EPA documented the determination that cleanup was necessary at properties such as the Fallises because of asbestos contamination. The selected response action to be implemented at the Property will result in the demolition of the Fallis' residence;

WHEREAS, the Fallises certify that the Property was acquired with no knowledge of the asbestos contamination. The Fallises have granted to EPA, its employees, agents, contractors and representatives access to the Property for the purpose of implementing the selected response action, including the demolition of the Fallis residence;

WHEREAS, the Fallises have no outstanding loans on the improvement.

WHEREAS, the Fallis residence has been appraised by Brad Kelsch of Howell and Associates, and the fair market value of the improvements determined to be a total of \$50,000. A garage, which is not being replaced, is valued at \$4,000. An evaluation of replacement cost of the home using a modular unit company of the Fallises choosing, (including foundation, utility connections and general contractor costs) is approximately \$88,908.00.

NOW, THEREFORE, in consideration of the mutual promises, obligations, and agreements set forth below, the parties agree as follows:

#### Section 1. Definitions

As used in this Agreement:

- (a) The term "EPA" shall mean the United States Environmental Protection Agency, Region 8.
  - (b) The term "Bank" shall mean the Lincoln County Credit Union of Libby, Montana.
- (c) The term "Funds" shall mean those monetary funds placed by EPA into an escrow account at Lincoln County Credit Union for the purposes established in this Agreement.
- (d) The term "Escrow Manager" shall mean the Bank official charged with implementing the disbursal of Funds pursuant to this Agreement.
- (e) The term "Allowable Expense" shall mean those expenses related to the replacement of the Fallis residence with a modular home, including an allocation of \$68,108.00 for the modular residential unit, \$14,000.00 for a foundation, \$1,800 for utility connections and \$5,000.00 for General Contractor costs.
- (f) The term "Escrow Account" shall mean the account setup, maintained and disbursed by the Bank for the purposes established herein.
- (g) The term "Property" shall mean the Fallis' residence and surrounding land owned by the Fallises at 16296 Bull Lake Road, Troy, MT.

## Section 2. Establishment of Escrow Account

EPA shall transfer to the Bank EIGHTY-EIGHT THOUSAND NINE HUNDRED EIGHT DOLLARS (\$88,908) within thirty (30) days of execution of this Agreement by EPA. This money shall constitute the Funds and shall be placed by the Bank into a non-interest bearing account which shall become the Escrow Account. EPA shall pay the Bank 1% of Funds that arc distributed for replacement of the Fallis' residence for the performance of its duties under this Agreement.

#### Section 3. Disbursement of the Funds

The Escrow Manager shall disburse the Funds in response to bi-weekly draws presented by the Fallis's general contractor. Each draw shall include a signed certification that all the bills included therein are for expenses related to the replacement of the Fallis' residence. The general contractor shall be a licensed independent contractor. All work performed shall be pursuant to valid city permits, where such permits are required. The Escrow Manager shall perform inspections of all the work.

## Section 4. Termination of the Escrow Account

The Escrow Manager shall continue the disbursements until the Funds are exhausted or until one year after EPA notifies the Fallises that the property is available for the construction of a new home, whichever occurs earlier. If any portion of the Funds are left in the Escrow Account after December 31, 2010, those Funds shall be returned to EPA and the Escrow Account shall be terminated. Exhaustion of the Funds on or before December 31, 2010 shall also constitute a termination of the Escrow Account. If EPA, the Escrow Manager, or the Bank determines that the Funds have been applied for or used for activities other than replacement of the Fallis residence, EPA may instruct the Bank and/or Escrow Manager to immediately terminate the Escrow Account. In such case, no further restoration funds will be provided and all claims against EPA will be considered released pursuant to Section 11.

# Section 5. Express Powers of the Escrow Manager and the Bank

Without in any way limiting the powers and discretions conferred upon the Escrow Manager and the Bank by the other provisions of this Agreement or by law, the Escrow Manager and the Bank are expressly authorized and empowered:

- (a) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to implement the powers herein granted; and
  - (b) To make all distributions and payments as described herein.

# Section 6. Monthly Valuation

The Escrow Manager shall furnish to the EPA a statement confirming the value of the Escrow Account on at least a monthly basis.

## Section 7. Instructions to the Escrow Manager and Bank

All orders, requests and instructions by EPA to the Escrow Manager and/or Bank shall be in writing. The Escrow Manager and the Bank shall be fully protected in acting without inquiry in accordance with EPA's orders, requests and instructions. The Escrow Manager and the Bank shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of EPA hereunder has occurred.

## Section 8. Notice

All notices under this Agreement will be sent by overnight delivery service or certified or registered mail to the address of the applicable party set forth below:

If to EPA:

Mr. Mike Cirian U.S. Environmental Protection Agency, Libby Information Center 501 Mineral Ave. Libby, MT 59923

If to the Bank or Escrow Manager:

Chari Lucas Lincohi County Credit Union P. O. Box 1586 Libby, Montana 59923

If to Fallis:

Mr. Buford Fallis 16296 Bull Lake Road, Troy, MT 59935

# Section 9. Amendment of Agreement

This Agreement may be amended by an instrument in writing executed by EPA, the Bank, and the Fallises.

## Section 10. Immunity

The Escrow Manager shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of the Escrow Account, or in implementing any orders, requests or instructions by EPA issued in accordance with this Agreement.

# Section 11. Release of Claims

The Fallises hereby agree that the payments made pursuant to this Agreement shall

# Fallis Relocation Cost Estimate Sheet

- 1 The relocation is for two adults.

  The relocation will last no longer than one calendar year from the start of the
- 2 demolition.
- 3 After 30 days, lodging is reduced by 45% for months 2 -12 and per diem is reduced by 55% for months 2 6. After 6 months per diem ends.
- 4 Use an average of 30 days per month.
- 5 The family will use alternate (non-hotel) lodging for the duration of the relocation.
- 6 No kenneling costs will be needed.
- 7 There is a need for storing of household items.
- 8 The contents from the home will fill two connex boxes.
  Miscellaneous expenses (such as laundry) will be not be reimbursed due to the
- 9 nature of the logding.

		F	er Die	m	[] 从宫域组
	1st	Month	2-6 M	lonths	
Head of					
Household	\$	39.00	\$	17.55	
Adult #2	\$	39.00	\$	17.55	
	\$	2,340.00	\$	5,265.00	
					\$ 7,605:00
			odgin	g	
	1st	Month	2-12	Months	
One apartment/ \$38.50/nig house for (\$1,155.00 month)		55.00 per			
	\$	2,100.00	\$	12,705.00	
					\$ 14,805.00
		Storage fo	r hous	ehold items	
Connex box (2)	Мо	b/Demob	Monti	nly rental	
	\$35 war	50/each	\$120	month/box	
	\$	1,400.00	\$	2,880.00	
					\$ 4,280.00
Total co	osts	for relocation	on for o	one year:	\$ 26,690.00

constitute full settlement and just compensation, under all applicable laws and regulations, of any and all claims they may have against the EPA for actual replacement and compensation for the value of all buildings and personal items demolished or diminished by, or disposed of pursuant to implementation of the selected response action. The Fallises assume full responsibility for the restoration activities. EPA shall not be deemed to be a party to any contract for the restoration. Fallis agrees to hold EPA harmless for any liability associated with such restoration, including, but not limited to, claims resulting from accidents or from defective construction.

# Section 12. Reservation of Rights

Nothing in this Agreement shall preclude the Fallises from pursuing any legal remedy that they may otherwise have against any other entity to recover damages and seek compensation not covered by or included in this Agreement. Nothing in this Agreement shall preclude EPA from pursuing any legal remedy that it may otherwise have against any potentially responsible party in order to recover costs EPA incurs for response actions at the Site.

#### Section 13. Choice of Law

This Agreement shall be administered, construed and enforced according to the laws of the State of Montana and of the United States of America.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed, where appropriate, by their duly authorized respective officers or employees.

July 13-07

Buford Fallis

Darlene Fallis

Carol Rushin, Acting Regional Administrator

United States Environmental Protection Agency

Chari Lucas

Lincoln County Credit Union

## AMENDMENT TO COMPENSATION AND ESCROW AGREEMENT

This Amendment to Compensation and Escrow Agreement (Agreement) is entered into as of May 3, 2010, by and between the United States Environmental Protection Agency, Region 8, First National Bank, Libby, Montana branch, and the Cabinet View Country Club (CVCC), hereinafter referred to collectively as the "Parties."

WHEREAS, the Parties executed an agreement for the restoration of the first nine holes of the golf course owned by CVCC at 378 Cabinet View Road, Libby, Montana at a total allocation of \$975,000.00, and

WHEREAS, the Parties agree that the original allocation of \$975,000.00 should be increased by \$175,782.00.

As provided by the original agreement at Section 9. Amendment of Agreement, Section 2 of the original agreement is hereby modified. A new section 2.a is added which shall read: EPA shall transfer to the Bank an additional ONE-IIUNDRED SEVENTY-FIVE THOUSAND, SEVEN HUNDRED EIGHTY-TWO DOLLARS AND NO CENTS (\$175,782.00) within thirty (30) days of execution of this Amendment of Compensation and Escrow Agreement by EPA.

IN WITNESS WHEREOF the Parties have caused this Amendment to Compensation and Escrow Agreement to be executed, where appropriate, by their duly authorized respective officers or employees.

Dam Rohrer	date 4/13/10
Dann Rohrer President: Cabinet View Country Club	
resident. Cabillet view country Club	
Line Chapsell Gene Chappell	date 4/13/10
Vice President: Cabinet View Country Club	
Vice Freducit. Capital View Country Clas	•
Bob Castaneda	date 13/2010
Bob Castaneda	
Board Member: Cabinet View Country Club	
Donn Ross First National Bank of Montana	date 4 13/2010
Libby, Montana, Branch	

date 5/3/2010

Carol Rushin, Acting Regional Administrator United States Environmental Protection Agency Region 8